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ELECTRONICALLY
**FILED**
*Superior Court of California, County of San Francisco*
**09/18/2026**
**Clerk of the Court**
BY: MARIVIC VIRAY
Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN FRANCISCO

**CGC-26-640976**

UNLIMITED CIVIL JURISDICTION

JAY EPPS,

Plaintiff,

v.

DIAGEO NORTH AMERICA, INC.,

Defendant.

Case No. _____

**COMPLAINT FOR CIVIL PENALTIES AND INJUNCTIVE RELIEF**

(Health & Safety Code §25249.5 *et seq*.)

## NATURE OF THE ACTION

1. This Complaint is a representative action brought by plaintiff Jay Epps in the public interest of the citizens of the State of California to enforce the People's right to be informed of the health hazard caused by exposures to ethyl alcohol, a toxic chemical found in alcoholic beverages including, but not limited, to "Spirts" and "Beer" (the Products). The Products are repackaged, stored, distributed, and/or sold to California consumers (Consumers) online by defendant Diageo North America, Inc. (Diageo) including through shipment (sold).

2. By this Complaint, plaintiff seeks to remedy defendant's continuing failure to warn consumers about the risks of exposure to ethyl alcohol in the Products that are distributed and/or offered for online sale for use by California citizens.

3. Defendant has actual knowledge of the ethyl alcohol content of Products which were and continue to be offered for purchase and/or transacted through its us.thebar.com platform (website). A business that sells products directly to Consumers through the internet, such as Diageo, is a "retail seller." Cal. Code Regs. tit. 27 §25600.1.

4. Under the Safe Drinking Water and Toxic Enforcement Act of 1986, codified at Health & Safety Code §§25249.6 *et seq.* (Proposition 65), "[n]o person in the course of doing business shall knowingly and intentionally expose any individual to a chemical known to the state to cause cancer or reproductive toxicity without first giving clear and reasonable warning to such individual...." Health & Safety Code §25249.6.

5. Pursuant to Proposition 65, on October 1, 1987, California identified and listed ethyl alcohol as a chemical known to cause birth defects and other reproductive harm. Ethyl alcohol became subject to the "clear and reasonable warning" requirements of the act one year later on October 1, 1988. 27 Cal. Code Regs. §27001(b); Health & Safety Code §25249.8 and §25249.10(b).

6. Defendant imports, distributes, facilitates and/or otherwise offers for sale the Products without the mandated health hazard warning in California. Examples of the Products

are: (i) Don Julio Añejo Tequila 750 ml and (ii) Aviation American Gin x Wrexham A.F.C. Limited-Edition Bottle with Bottle Scarf 750 ml.

7. Defendant's failure to warn consumers of the reproductive hazards associated with exposures to ethyl alcohol in conjunction with each online sale of the Products violates Proposition 65. These violations subject defendant to be enjoined of such further conduct as well as assessed civil penalties for such acts. Health & Safety Code §25249.7(a) and (b)(1). This Complaint does not allege that defendant or any third party failed to provide warnings on the Products or at retail locations, including through posted signage.

8. For defendant's violations and threatened violations of Proposition 65, plaintiff seeks preliminary and permanent injunctive relief to compel defendant to provide purchasers of the Products with the required warning regarding the specific health hazard associated with exposures to ethyl alcohol prior to sale. Health & Safety Code §25249.7(a).

9. Pursuant to Health & Safety Code §25249.7(b), plaintiff also seeks civil fines against defendant for its violations of Proposition 65, dating back as far as September 18, 2022.

## PARTIES

10. Plaintiff Jay Epps is a citizen of the State of California who is dedicated to protecting the health of California citizens through the elimination or reduction of toxic exposures from consumer products, and he brings this action in the public interest pursuant to Health & Safety Code §25249.7(d).

11. Diageo is a person in the course of doing business within the meaning of Health & Safety Code §§25249.6 and 25249.11.

12. Diageo imports, distributes, facilitates, and/or offers the Products for online sale in the State of California, or implies by its conduct that it does so.

## VENUE AND JURISDICTION

13. Venue is proper in the Superior Court for the County of San Francisco pursuant to Code of Civil Procedure §§393, 395, and 395.5, because (a) this Court is a court of competent

jurisdiction, (b) plaintiff seeks civil penalties against defendant, (c) one or more instances of wrongful conduct occurred in this county, and (d) defendant conducted business in San Francisco.

14. The California Superior Court has jurisdiction over this action pursuant to California Constitution Article VI, section 10, which grants the Superior Court "original jurisdiction in all causes except those given by statute to other trial courts." The statute under which this action is brought does not specify any other basis of subject matter jurisdiction.

15. The California Superior Court has jurisdiction over defendant based on plaintiff's information and good faith belief that defendant is a person, firm, corporation has a principal office or association that is a citizen of the State of California, has sufficient minimum contacts in the State of California, and/or otherwise purposefully avails itself of the California market. Defendant's purposeful availment renders the exercise of personal jurisdiction (specific, limited or both) by California courts consistent with traditional notions of fair play and substantial justice.

## FIRST CAUSE OF ACTION

**(Violation of Proposition 65)**

16. Plaintiff realleges and incorporates by reference, as if fully set forth herein, Paragraphs 1 through 15, inclusive.

17. In enacting Proposition 65, in the preamble to the Safe Drinking Water and Toxic Enforcement Act of 1986, the People of California expressly declared their right "[t]o be informed about exposures to chemicals that cause cancer, birth defects, or other reproductive harm."

18. Proposition 65 states, "[n]o person in the course of doing business shall knowingly and intentionally expose any individual to a chemical known to the state to cause cancer or reproductive toxicity without first giving clear and reasonable warning to such individual…." Health & Safety Code §25249.6.

19. On July 9, 2026, plaintiff served a 60-Day Notice of Violation (Notice), together with the requisite certificates of merit, on Diageo, the California Attorney General's Office, and the requisite public enforcement agencies. The Notice alleged that, as a result of defendant's sales of alcoholic beverages, consumers in California were and continue to be exposed to ethyl alcohol

from the reasonably foreseeable use of the Products. It further alleged that consumers did not first receive a "clear and reasonable warning" at the time of their online purchase of the alcoholic beverages regarding the developmental harm associated with such exposures, as required by Proposition 65.

20. After receiving the Notice, no public enforcement agency has commenced and diligently prosecuted a cause of action against defendant under Proposition 65 to enforce the alleged violations that are the subject of plaintiff's sixty-day letter dated July 9, 2026.

21. Defendant imported, distributed, facilitated for sale, sold, and/or offered the Products for sale on its website in violation of Health & Safety Code §25249.6, as far back as September 18, 2022 (relevant period). Defendant's violations have continued beyond its receipt of the Notice. As such, defendant's violations are ongoing and, unless enjoined, will continue to occur.

22. The Products that defendant offers for sale and sold to California consumers cause exposure to ethyl alcohol as a result of their reasonably foreseeable use. Defendant did not provide a compliant warning for the developmental toxicity of ethyl alcohol on its website in a clear and conspicuous manner to California consumers during the relevant period.

23. Defendant has (and has had at all relevant times) actual knowledge that the Products contain ethyl alcohol and that warnings concerning exposure to ethyl alcohol are to be conveyed to Consumers in connection with online transactions.

24. Ethyl alcohol is present in or on the Products in such a way as to expose consumers through ingestion during reasonably foreseeable use. The allegations herein are limited to defendant's failure to transmit such warnings and do not concern responsibility for on-product labeling or in-store warnings.

25. The normal and reasonably foreseeable use of the Products has caused, and continues to cause, consumer product exposures to ethyl alcohol as defined by 27 California Code of Regulations §25600.1(e) as set forth in the Notice.

26. Defendant knows that the normal and reasonably foreseeable use of the Products exposes individuals to ethyl alcohol through ingestion.

27. Defendant intends that exposures to ethyl alcohol from the reasonably foreseeable use of the Products will occur by its deliberate, non-accidental participation in the importation, distribution, sale, and/or offering of the Products for sale to consumers in California.

28. Defendant failed to provide a "clear and reasonable warning" on its website to those consumers in California who have been, or who will be, exposed to ethyl alcohol resulting from their use of the Products.

29. Contrary to the express policy and statutory prohibition of Proposition 65 enacted directly by California voters, consumers exposed to ethyl alcohol as a result of their use of the Products that defendant sold without a "clear and reasonable" health hazard warning, have suffered, and continue to suffer, irreparable harm for which they have no plain, speedy, or adequate remedy at law.

30. Pursuant to Health & Safety Code §25249.7(b), as a consequence of the above-described acts, defendant is liable for a maximum civil penalty of $2,500 per day for each violation.

31. As a consequence of the above-described acts, Health & Safety Code §25249.7(a) also specifically authorizes the Court to grant injunctive relief against defendant.

**PRAYER FOR RELIEF**

Wherefore, plaintiff prays for judgment against defendant as follows:

1. That the Court, pursuant to Health & Safety Code §25249.7(b), assess civil penalties against defendant, in the amount of $2,500 per day for each violation that occurred since September 18, 2022;

2. That the Court, pursuant to Health & Safety Code §25249.7(a), preliminarily and permanently enjoin defendant from importing, distributing, or offering the Products for sale online in California without first providing a "clear and reasonable warning" regarding the harm associated with exposures to ethyl alcohol;

3. That the Court, pursuant to Health & Safety Code §25249.7(a), mandate defendant to contact each California online purchaser of the Products that were sold in violation of Health & Safety Code §25249.6 and to refund them of their out-of-pocket costs;

4. That the Court grant plaintiff his reasonable attorneys' fees and costs of suit; and

5. That the Court grant such other and further relief as may be just and proper.

Dated: September 18, 2026

Respectfully submitted,

CHANLER GROUP

By: _____

Clifford A. Chanler

Attorneys for Plaintiff
JAY EPPS